

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
 )  
 KAUAI ISLAND UTILITY COOPERATIVE )  
 )  
 For Approval of Power Purchase )  
 Agreement with AES Kekaha Solar, LLC )  
 to Include Costs in Kauai Island )  
 Utility Cooperative's Energy Rate )  
 Adjustment Clause, for Commitment and )  
 Expenditure of Funds in Excess of )  
 \$2,500,000 for the PMRF Substation )  
 Project, and Related Matters. )  
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DOCKET NO. 2017-0443

DECISION AND ORDER NO. 35538

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PUBLIC UTILITIES  
COMMISSION

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_____ )	

DECISION AND ORDER

By this Decision and Order, the State of Hawaii Public Utilities Commission ("commission") approves, subject to the conditions stated herein, the requests set forth in KIUC's Application<sup>1</sup> for approval of its Power Purchase Agreement (the "PPA")<sup>2</sup> with AES Kekaha Solar, LLC ("AES").<sup>3</sup> Specifically, the commission:

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<sup>1</sup>"Application; Exhibits 1 Through 5; Verification; and Certificate of Service," filed December 22, 2017 ("Application").

<sup>2</sup>The PPA is dated September 29, 2017, and is attached to the Application as Exhibit 1.

<sup>3</sup>The Parties are KAUAI ISLAND UTILITY COOPERATIVE ("KIUC") and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative

1. Approves the PPA pursuant to HRS § 269-27.2;
2. Finds that the contract price of \$108.50 per megawatt hour ("MWh") to be paid by KIUC to AES pursuant to the PPA is just and reasonable; and
3. Finds that the purchased energy arrangements under the PPA are prudent and in the public interest.

The commission also approves:

4. KIUC's request to include the purchased energy charges and related revenue taxes that it incurs under the PPA, pursuant to HAR § 6-60-6(2), in its Energy Rate Adjustment Clause ("ERAC"), to the extent that those costs are not already included in base rates, except for any costs related to curtailed energy;

5. KIUC's request to commit an estimated \$8.87 million to the Pacific Missile Range Facility ("PMRF") Substation Project pursuant to Paragraph 2.3(g)(2) of the commission's General Order No. 7 ("G.O. 7");

6. KIUC's request to build a transmission line above the surface of the ground, pursuant to HRS § 269-27.6(a); and

7. Pursuant to HRS § 269-19(a), KIUC's plan to sublease land within PMRF to AES, for the purpose of the construction, maintenance, and operation of the Facility, as specifically described in the Application.

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Rules ("HAR") § 6-61-62(a). No persons moved to intervene or participate in this proceeding.

The commission's approval is subject to the conditions that:

1. KIUC shall file with the commission and Consumer Advocate copies of all AES invoices related to the engineering, procurement, construction, and maintenance associated with the Facility no later than sixty (60) days after the Commercial Operation Date of the Facility; and

2. KIUC shall also provide copies of AES's income statements or results of operations related to the Facility that will allow the commission and Consumer Advocate to evaluate the comparability of the Facility's actual results to KIUC's analysis made in support of this Application.

# I.

## APPLICATION AND PROCEDURAL HISTORY

On December 22, 2017, KIUC filed its Application requesting that the commission:

- (1) Approve the PPA pursuant to HRS § 269-27.2;
- (2) Find that the contract price of \$108.50 per MWh to be paid by KIUC to AES pursuant to the PPA is just and reasonable;
- (3) Find that the purchased energy arrangements under the PPA are prudent and in the public interest;
- (4) Authorize, pursuant to HAR § 6-60-6(2), the inclusion of the costs incurred under the PPA, including applicable taxes

and assessments, but excluding costs related to curtailed energy, into KIUC's ERAC, to the extent that such costs are not recovered in KIUC's base rates;

- (5) Approve, pursuant to Paragraph 2.3(g)(2) of the commission's G.O. 7, KIUC's commitment and expenditure of funds to undertake, construct, and build a new substation ("Substation") and a new transmission line ("Transmission Line") to connect the PPA's generating system (collectively, "Facility") and battery energy storage system ("BESS") to KIUC's power system;
- (6) Determine, pursuant to HRS § 269-27.6, that the Transmission Line should be placed, constructed, erected, and built above the surface of the ground;
- (7) Approve, pursuant to HRS § 269-19, KIUC entry into a sublease with AES for the Facility, if the commission determines that such approval is required, or, in the alternative, waive the requirements of HRS § 269-19, pursuant to HRS § 269-31; and
- (8) Grant any other relief applicable, required, just and/or reasonable to allow KIUC to perform and fulfill its obligations under the PPA and related interconnection agreement ("Interconnection Agreement").<sup>4</sup>

The Application requests that the commission issue a decision and order no later than June 30, 2018.<sup>5</sup>

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<sup>4</sup>Application at 1-4, 7 (citations omitted).

<sup>5</sup>Application at 1. KIUC filed its request to commit and spend funds to undertake, construct, and build the Substation and the Transmission Line in the Application in accordance with Paragraph 2.3(g)(2) of General Order No. 7, Standards for Electric Utility Service in the State of Hawaii ("Paragraph 2.3(g)(2)"). Paragraph 2.3(g)(2) provides that if the commission does not act on an electric utility's application and render a decision and

On January 10, 2018, the commission issued Protective Order No. 35207 to govern the designation of confidential information produced in this docket.<sup>6</sup> On January 18, 2018, KIUC filed, under seal, the redacted pages of its Application with the commission and Consumer Advocate.

On February 9, 2018, the commission issued Order No. 35277, which established the procedural schedule for this docket.<sup>7</sup>

On February 20, 2018, the Consumer Advocate issued Information Requests ("IRs") to KIUC, to which KIUC filed responses on March 23, 2018, and supplemental responses on May 21, 2018, and May 24, 2018 ("KIUC Response to CA-IRs").

On March 13, 2018, the commission issued IRs to KIUC, to which KIUC filed responses on March 23, 2018 ("KIUC Response to PUC-IRs").

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order within 90 days of filing, the utility will be allowed "to include the project in its rate base without determination by the [c]ommission required by this rule." The Application requests a decision and order by June 30, 2018, which is beyond the 90-day period set forth in Paragraph 2.3(g)(2). Therefore, the commission determines that KIUC has affirmatively waived the 90-day automatic approval provision of Paragraph 2.3(g)(2).

<sup>6</sup>Protective Order No. 35207, filed on January 10, 2018.

<sup>7</sup>Order No. 35277 "Approving the Parties' Proposed Procedural Schedule," filed on February 9, 2018. The commission notes that it adopted the Parties' proposed procedural schedule, which set deadlines beyond the 90-day period set forth in Paragraph 2.3(g)(2) of G.O. 7.

On April 9, 2018, the Consumer Advocate issued Supplemental Information Requests ("SIRs") to KIUC, to which KIUC filed responses on May 4, 2017 ("KIUC Response to CA-SIRs").

On May 30, 2018, the Consumer Advocate filed its Statement of Position.<sup>8</sup>

On June 1, 2018, KIUC filed its Response to the Consumer Advocate's Statement of Position.<sup>9</sup>

## II.

### THE PPA

#### A.

#### The Contracting Parties

KIUC is a Hawaii not-for-profit electric cooperative engaged in the production, transmission, distribution, purchase, and sale of electric energy on the island of Kauai.<sup>10</sup> AES is an indirect subsidiary of The AES Corporation, which is a Fortune 200, publicly-traded holding company with approximately \$36.5 billion

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<sup>8</sup>"Division of Consumer Advocacy's Statement of Position; and Certificate of Service" filed May 30, 2018 ("CA SOP").

<sup>9</sup>"Kauai Island Utility Cooperative's Response Statement to Division of Consumer Advocacy's Statement of Position; and Certificate of Service," filed June 1, 2018 ("KIUC Response").

<sup>10</sup>Application at 5.

in assets, \$15 billion in annual revenues, and \$7.8 billion worth of projects under construction.<sup>11</sup>

B.

New Generation and Storage Facility

Pursuant to the PPA, AES will construct a 19.278 megawatt ("MW") direct current, 14 MW alternating current, solar photovoltaic ("PV") generating system, together with related auxiliary, controls, and interconnection facilities, coupled with a 70 MWh BESS.<sup>12</sup> KIUC will lease an approximately 140-acre parcel of land within the PMRF from the Department of the Navy ("Navy").<sup>13</sup> KIUC will sublease 138 acres of this parcel to AES, where AES will build, operate, maintain, and repair the Facility in accordance with the PPA; the remaining two acres will be used for the PMRF Substation.<sup>14</sup>

The BESS will enable the Facility to be "firm-like" because the BESS can store the System's output for later use,

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<sup>11</sup>Application at 7 (citing information regarding The AES Corporation that KIUC provided in its application in Docket No. 2017-0018, filed on January 25, 2017).

<sup>12</sup>Application at 7-8.

<sup>13</sup>Application at 7. According to KIUC, the Navy requires that KIUC, and not AES, lease the land from the Navy. Application at 35 n.66.

<sup>14</sup>Application at 8-9.



and be dispatched by KIUC in its preferred manner.<sup>15</sup> KIUC plans to dispatch the stored energy from the BESS to: (1) help with ramping towards KIUC's afternoon/evening peak (rather than ramping up conventional oil-fired units); (2) shave the evening peak (by not dispatching KIUC's most inefficient conventional units); (3) offset night-time oil-fired generation; and (4) assist in grid stabilization, subject to discharge limits.<sup>16</sup> Contingent upon commission approval, AES will begin constructing the Facility "around or after July 2018" and "reach full-scale commercial operation" by September 1, 2019.<sup>17</sup>

KIUC and AES executed the PPA to govern the purchase by KIUC from AES all available "Energy Product," subject to the terms and conditions of the PPA.<sup>18</sup>

C.

Terms of PPA

The salient terms of the PPA are provided below. All specifically-defined terms in the PPA - denoted in this Order

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<sup>15</sup>Application at 13.

<sup>16</sup>Application at 13.

<sup>17</sup>Application at 10.

<sup>18</sup>Application at 11. KIUC notes that the PPA is "very similar" to a power purchase agreement approved by the commission in Docket No. 2017-0018. Application at 11 n.29.

with bold text and leading capital letters - can be found in the Application, Exhibit 1 (the PPA), Appendix A.

**Initial Term:** The Initial Term of the PPA is twenty-five (25) **Contract Years**, commencing on the **Commercial Operation Date**.<sup>19</sup> KIUC has the option to extend the PPA by ten (10) **Contract Years**, pursuant to certain terms set forth in the PPA.<sup>20</sup>

**Purchase of Energy Product at Contract Price:** During the term of the PPA, AES will sell and deliver to KIUC, and KIUC will purchase and receive from AES, all **Energy Product** associated with the Facility at a **Contract Price** of \$108.50 per MWh of **Net Output** delivered to the **Point of Delivery**.<sup>21</sup>

**Standard of Facility Operation:** AES is required to build, operate, maintain, and repair the Facility in accordance with all terms in the PPA and its appendices, and any requirements or Orders of the commission, or any other **Governmental Authority**.<sup>22</sup>

**Dispatch:** Subject to the terms of the PPA, KIUC will have the discretion to dispatch the Facility in KIUC's preferred manner, including (1) helping with ramping towards KIUC's afternoon/evening peak; (2) shaving the evening peak (rather than

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<sup>19</sup>Application at 11.

<sup>20</sup>Application, Exhibit 1, at 3.

<sup>21</sup>Application at 12.

<sup>22</sup>Application at 12.

dispatching oil-fired generation); (3) offsetting night-time oil-fired generation; and (4) assisting in grid stabilization, subject to discharge limits.<sup>23</sup>

**BESS Capacity Obligations:** AES will be required to comply with certain **BESS Capacity Obligations**, as defined by the PPA, to provide KIUC with assurance that the BESS will function as intended.<sup>24</sup> Should AES fail to comply with the **BESS Capacity Obligations**, the PPA provides KIUC additional protections, discussed further below.<sup>25</sup>

**Curtailement and Curtailement Credits:** KIUC has the right to cause a Curtailement of the Facility under certain circumstances and within certain yearly limits specified in the PPA.<sup>26</sup> Such Curtailement of the Facility is at KIUC's sole discretion, and without payment to AES.<sup>27</sup> For every day that AES is not in compliance with its **BESS Capacity Obligations**, KIUC will receive

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<sup>23</sup>Application at 13.

<sup>24</sup>Application at 13.

<sup>25</sup>Application at 13-14.

<sup>26</sup>Application at 14 (KIUC redacted the specific circumstances and limits of curtailement as confidential, pursuant to Protective Order No. 35207).

<sup>27</sup>Application at 14.

additional rights to cause a Curtailment of the Facility, without penalty.<sup>28</sup>

**Indemnification, Insurance, and Performance Assurance:**

The PPA sets forth mutual indemnification provisions that KIUC believes will provide it adequate protection from claims against AES.<sup>29</sup> The PPA requires AES to secure and continuously carry, at its expense, certain insurance coverage.<sup>30</sup> The PPA also requires AES to provide KIUC with a certain amount of security to assure AES performs its obligations prior to Commercial Operation.<sup>31</sup>

**Interconnection:** AES will be responsible for all costs and expenses associated with the interconnection of the Facility up to and including the Point of Delivery, including the amounts required under the Interconnection Agreement.<sup>32</sup>

**Conditions Precedent and Termination Rights:** KIUC and AES agreed to a number of conditions precedent, including a provision for KIUC to "expeditiously and in good faith receive a

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<sup>28</sup>Application at 14-15.

<sup>29</sup>Application at 16.

<sup>30</sup>Application at 16.

<sup>31</sup>Application at 16 (KIUC redacted the specific amount of security as confidential, pursuant to Protective Order No. 35207).

<sup>32</sup>Application at 16-17.

'Final PUC Approval Order' from the [c]ommission."<sup>33</sup> Should either party to the PPA be unable to achieve the conditions precedent, the counter party has recourse under the PPA, including rights to terminate as set forth in Sections 2.4 and 11 of the PPA.<sup>34</sup>

D.

The ERAC

KIUC requests that the commission authorize, pursuant to HAR § 6-60-6(2), the inclusion of the costs incurred under the PPA, including taxes and assessments, into KIUC's ERAC to the extent that such costs are not recovered in KIUC's base rates.<sup>35</sup> KIUC states that it is not requesting, at this time, authorization to include any payments for curtailed energy under the PPA in its ERAC.<sup>36</sup> KIUC further states that this does not preclude KIUC from seeking recovery of curtailment payments, if any, incurred under the PPA, through an alternative mechanism.<sup>37</sup>

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<sup>33</sup>Application at 17 (citations omitted).

<sup>34</sup>Application at 17 (citations omitted).

<sup>35</sup>Application at 2.

<sup>36</sup>Application at 2 n.7.

<sup>37</sup>Application at 2 n.7 (citations omitted).

E.

The PMRF Substation Project

Pursuant to the PPA, KIUC will construct the PMRF Substation that will be located adjacent to the Facility.<sup>38</sup> The PMRF Substation, together with the approximately 0.3 mile Transmission Line, and a 12.47kV distribution line extension, will connect the Facility to KIUC's electric power system.<sup>39</sup> KIUC estimates that the PMRF Substation will cost \$8,681,490, of which KIUC will fund \$8,331,490.<sup>40</sup> KIUC estimates that the Transmission Line will cost \$170,000, and the 12.47kV distribution line extension will cost \$370,000.<sup>41</sup> KIUC states that AES will pay an estimated \$350,000 of the total costs for the PMRF Substation Project, leaving KIUC to pay the approximate net costs of \$8,870,000.<sup>42</sup> KIUC requests that the commission authorize KIUC to expend these funds to construct the PMRF Substation, the Transmission Line, and the distribution line extension,

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<sup>38</sup>Application at 18.

<sup>39</sup>Application at 17-18.

<sup>40</sup>Application at 21.

<sup>41</sup>Application at 19. In response to CA-IR-21, KIUC provided an updated cost estimate of \$370,000 for the Transmission Line.

<sup>42</sup>Application at 19.

pursuant to G.O.7, because it is "necessary/useful for KIUC's system operations and is reasonable and in the public interest."<sup>43</sup>

F.

The Transmission Line

The Transmission Line will consist of a new section of "double-circuit construction to be added to the existing 7.3 mile Kekaha to Mana 57.1kV transmission line."<sup>44</sup> According to KIUC, the PMRF Substation will connect to KIUC's electric power system via the Transmission Line.<sup>45</sup> KIUC states that the Transmission Line "does not run through a residential area, and the nearest residential area outside of the PMRF is located approximately 2.9 miles away."<sup>46</sup> KIUC requests that the commission determine, pursuant to HRS § 269-27.6, that the Transmission Line "be placed, constructed, erected, and built above the surface of the ground (i.e. overhead)."<sup>47</sup>

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<sup>43</sup>Application at 28.

<sup>44</sup>Application at 18.

<sup>45</sup>Application at 18.

<sup>46</sup>Application at 18.

<sup>47</sup>Application at 28-29.

1.

HRS § 269-27.5

With respect to public hearing regarding the Transmission Line, KIUC notes that HRS § 269-27.5 requires the commission to conduct a public hearing, prior to approving new transmission lines above the surface of the ground, when said transmission lines are located through any residential area.<sup>48</sup> KIUC further states that the nearest residence to the proposed transmission line is approximately 2.9 miles away.<sup>49</sup>

2.

HRS § 269-27.6(a)

KIUC estimates that the costs to underground the Transmission Line would be "substantially more than an overhead construction."<sup>50</sup> KIUC later stated that the cost to underground the Transmission Line "would be in excess of \$1,900,000."<sup>51</sup> KIUC further asserts that "there would be no material benefit" to building the Transmission Line underground, because:  
(1) any additional reliability benefits of undergrounding would be

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<sup>48</sup>Application at 29 n.58 (quoting HRS § 269-27.6(a)).

<sup>49</sup>Application at 29 n.58.

<sup>50</sup>Application at 30.

<sup>51</sup>Response to CA-IR-21.



mitigated by difficulties in locating, accessing, and repairing any faults; and (2) any possible aesthetic gains of undergrounding would be "negligible, because the same corridor already contains overhead distribution lines."<sup>52</sup> KIUC states that there is no governmental policy that requires the underground placement of the Transmission Line.<sup>53</sup> KIUC states that there is no outside source of funding to pay for the additional costs of placing the Transmission Line underground, and there is no indication that any such outside source is forthcoming.<sup>54</sup> KIUC states that there are two other relevant factors that support placing the Transmission Line above the surface of the ground. First, KIUC reiterates that the Transmission Line will be 2.9 miles away from any existing residential area.<sup>55</sup> Second, KIUC states that the Transmission Line is "a critical part of the PMRF Substation Project . . . ."<sup>56</sup>

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<sup>52</sup>Application at 30-31.

<sup>53</sup>Application at 31.

<sup>54</sup>Application at 31.

<sup>55</sup>Application at 31-32.

<sup>56</sup>Application at 32.

G.

The Sublease and HRS § 269-19

According to KIUC, the Facility will be located on "approximately 138 acres of vacant land located on PMRF that KIUC will lease from the Navy, and that KIUC will in turn sublease to AES" where AES will build and operate the Facility.<sup>57</sup> KIUC states that "the sublease could be construed as KIUC encumbering 'the whole or any part of its road, line, plant, system, or other property necessary or useful in the performance or duties to the public,' which requires prior [c]ommission approval," pursuant to HRS § 269-19.<sup>58</sup> KIUC seeks either commission approval to enter into the sublease, pursuant to HRS § 269-19, or a waiver of said approval requirement.<sup>59</sup>

III.

POSITIONS OF THE PARTIES

A.

KIUC's Position

In support of its Application, KIUC asserts that the Contract Price is materially lower than KIUC could expect from

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<sup>57</sup>Application at 32.

<sup>58</sup>Application at 32 (quoting HRS § 269-19).

<sup>59</sup>Application at 36-37.

other third-party developers.<sup>60</sup> KIUC further asserts that because the Facility will be "firm like," KIUC will be able to dispatch stored energy from the BESS for a variety of purposes, including: (a) ramping up towards the afternoon peak (rather than using KIUC's conventional oil-fueled units); (b) shaving the evening peak by displacing fossil fuel fired generation (rather than dispatching KIUC's most inefficient oil-fueled unit); (c) offsetting night-time oil-fired generation; and (d) assisting in grid stabilization subject to discharge limits.<sup>61</sup>

KIUC states that the PPA will reduce its fuel consumption by an average of approximately 2.6 million gallons per year, and save its members/customers over \$76 million over the 25-year term of the PPA.<sup>62</sup> KIUC states that the renewable energy it purchases from the Facility, pursuant to the PPA, will assist KIUC in achieving the State of Hawaii's Renewable Portfolio Standard, set forth in HRS §§ 269-91 et seq., as amended ("RPS"), and contribute approximately 7.64 percent to KIUC's 2020 RPS.<sup>63</sup>

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<sup>60</sup>Application at 22.

<sup>61</sup>Application at 23.

<sup>62</sup>Application at 23-24. KIUC states that the PPA will provide savings to its members/customers as long as the price of oil averages more than \$30 per barrel. Application at 24 n.51.

<sup>63</sup>Application at 24.

KIUC requests commission approval of the Application by June 30, 2018, noting that this would minimize the risk of changes to federal and state tax incentives applicable to the Facility, and will further AES' efforts to construct the Facility by the projected in-service milestone date of September 1, 2019.<sup>64</sup>

KIUC specifically requests that the commission:

1. Approve the PPA, pursuant to HRS § 269-27.2;
2. Find that the PPA's Contract Price of \$108.50 per MWh, to be paid by KIUC is just and reasonable;
3. Find that the purchased energy arrangements (e.g., terms and conditions) under the PPA are prudent and in the public interest;
4. Authorize KIUC, pursuant to HAR § 6-60-6(2), to include the costs incurred by KIUC under the PPA, including applicable taxes and assessments, in KIUC's ERAC, to the extent that such costs are not included in base rates, except for any costs related to curtailed energy;
5. Approve, pursuant Paragraph 2.3(g)(2) of G.O. 7, the commitment and expenditure of funds to undertake, construct, and complete the PMRF Substation Project;

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<sup>64</sup>Application at 37.

6. Determine, pursuant to HRS § 269-27.6, that the Transmission Line should be placed, constructed, erected, and built above the surface of the ground;

7. If the commission determines that approval under HRS § 269-19 is required for KIUC to sublease land to AES, that the commission either grant said approval, or exempt KIUC from the need to obtain such approval, pursuant to HRS § 269-31(b); and

8. Grant such other relief as may be just and reasonable to allow KIUC to fulfill its obligations, including, if applicable and not otherwise waived or exempted pursuant to HRS § 269-31, any approval necessary under HRS § 269-19 with respect to the planned interconnection facilities that will be owned and maintained by AES.<sup>65</sup>

## B.

### The Consumer Advocate's Position

On May 30, 2018, the Consumer Advocate filed its Statement of Position, recommending that the commission: (1) approve the PPA; (2) allow KIUC to include costs incurred under the PPA in its ERAC, to the extent such costs are not included in KIUC's base rates; (3) approve the commitment and expenditure of funds for the PMRF Substation project; and (4) determine that the

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<sup>65</sup>Application at 38-40 (citations omitted).

Transmission Line should be placed, constructed, erected, and built above the surface of the ground.<sup>66</sup>

1.

The Facility and the PPA

With respect to KIUC's selection of the PMRF site and the Facility, the Consumer Advocate notes that KIUC used the same inquiries and bidding process that resulted in the AES Lawai Solar Project ("AES Lawai"), which the commission approved in Docket No. 2017-0018.<sup>67</sup> This process involved analyzing the potential for additional solar energy projects "with battery energy storage that could provide firm-like power to KIUC, whereby KIUC could utilize stored energy from the battery to help with ramping toward KIUC's afternoon/evening peak and to assist with shaving the evening peak."<sup>68</sup> KIUC contacted eight (8) Kauai landowners and forty (40) project developers to determine pricing for similar projects based upon rough size and completion schedule.<sup>69</sup> During that process, KIUC became aware that the Navy

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<sup>66</sup>CA SOP at 1-2.

<sup>67</sup>CA SOP at 10 (citation omitted).

<sup>68</sup>CA SOP at 10 (quoting Application at 6).

<sup>69</sup>Application at 6.

"was preparing to issue a lease solicitation for vacant land at PMRF."<sup>70</sup>

The Consumer Advocate relies on KIUC's statement regarding its selection process that "AES provided the best overall value as a counter-party" based on its "history of diversified transactions and stable financial standing," AES' construction and operational experience, especially in Hawaii, innovative engineering, and "a perceived (and later realized) ease and efficiency of final negotiations . . . ."<sup>71</sup>

The Consumer Advocate notes that the Facility will be different from AES Lawai due to certain terms in KIUC's lease with the Navy that require KIUC to provide, in lieu of monetary lease payments to the Navy, in-kind consideration to the Navy "in the form of increased energy security and resiliency . . . ."<sup>72</sup> This energy security and resiliency includes the Facility's "black start capability" and ability "to operate in islanded mode from the KIUC grid during KIUC grid outages and during PMRF critical missions . . . ."<sup>73</sup>

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<sup>70</sup>CA SOP at 11 (quoting Application at 6; the commission notes that the quoted passage appears in the Application at 7).

<sup>71</sup>CA SOP at 12 (quoting Response to CA-IR-13a).

<sup>72</sup>CA SOP at 12.

<sup>73</sup>CA SOP at 12-13 (quoting Application, Exhibit 3, at 4-5).

The Consumer Advocate does not object to the Application for the following reasons. First, although KIUC's members/customers will pay the costs for the PMRF Substation and related facilities, KIUC and its members/customers are projected to save over \$63 million (net present value using five percent discount rate) over the term of the PPA.<sup>74</sup> Second, the Facility will contribute approximately 7.64 percent to KIUC's 2020 RPS, and reduce KIUC's fossil fuel use by 2.6 million gallons annually.<sup>75</sup> Third, no other developers offered to build a comparable project.<sup>76</sup> Fourth, the Facility is designed to neither adversely impact future distributed energy resources nor exacerbate existing minimum daytime load conditions.<sup>77</sup> Fifth, the PMRF site has geographical benefits relative to others, including flatter topography, higher solar irradiation, minimal visual impacts, and lower flooding risks.<sup>78</sup> Sixth, the Facility is located within a secure military

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<sup>74</sup>CA SOP at 14. The commission notes that the approximately \$13 million difference between KIUC's estimated savings (\$76 million) and the Consumer Advocate's estimated savings (\$63 million) is the result of how each party accounts for the costs associated with the Transmission Line and the PMRF Substation. See Response to CA-SIR-1.

<sup>75</sup>CA SOP at 14 (citations omitted).

<sup>76</sup>CA SOP at 14 (citation omitted).

<sup>77</sup>CA SOP at 14-15 (citation omitted).

<sup>78</sup>CA SOP at 15 (citation omitted).



facility and will provide national security benefits.<sup>79</sup> Finally, the Consumer Advocate notes that the Facility will take full advantage of the Federal investment tax credit, and there are "no other cost-effective and realizable projects that can be in service by 2019 for Kauai."<sup>80</sup>

With respect to the reasonableness of the terms and conditions of the PPA, the Consumer Advocate states that the terms and conditions of the PPA are similar to those found in other power purchase agreements that the commission has recently approved.<sup>81</sup> The Consumer Advocate notes that KIUC has identified several measures to mitigate risks associated with the PPA, and interconnection cost overruns.<sup>82</sup>

The Consumer Advocate recommends that the commission require KIUC to file certain information as a condition on approval of the PPA, as the commission has done in similar dockets.<sup>83</sup> Specifically, the Consumer Advocate proposes requiring KIUC to

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<sup>79</sup>CA SOP at 15 (citation omitted).

<sup>80</sup>CA SOP at 14 (citation omitted).

<sup>81</sup>CA SOP at 16 (citing Docket No. 2017-0018).

<sup>82</sup>CA SOP at 16-17.

<sup>83</sup>CA SOP at 18 (citing Docket No. 2015-0331, Decision and Order No. 33557, filed on February 26, 2016, and Docket No. 2017-0018, Decision and Order No. 34723, filed on July 28, 2017, noting that the Consumer Advocate had recommended that the commission impose a similar condition).

provide the commission and the Consumer Advocate, copies of all invoices that KIUC receives from AES "related to the engineering, procurement, construction, and maintenance" associated with the Facility no later than sixty days after the Commercial Operation Date.<sup>84</sup> In addition, the Consumer Advocate recommends that the commission require KIUC to "provide copies of AES' income statements or results of operations" related to the Facility so that the commission and Consumer Advocate may "evaluate the comparability of the project's actual results to KIUC's analysis made in support of the proposed PPA."<sup>85</sup> The Consumer Advocate states that these filings "shall be treated as confidential information and shall be filed under seal."<sup>86</sup>

2.

The ERAC

The Consumer Advocate notes that KIUC is not requesting, at this time, to include any payments for curtailed energy under the PPA in its ERAC, consistent with prior commission decisions.<sup>87</sup>

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<sup>84</sup>CA SOP at 18.

<sup>85</sup>CA SOP at 18.

<sup>86</sup>CA SOP at 18.

<sup>87</sup>CA SOP at 20-21 (citing Docket No. 2011-0181, Decision and Order No. 30267, filed on March 16, 2012, Docket No. 2015-0331, Decision and Order No. 33557, filed on February 26, 2016,

Therefore, the Consumer Advocate states that it does not oppose commission authorization for KIUC "to include the payments related to the proposed PPA and related revenue taxes in KIUC's ERAC to the extent that such costs are not recovered in KIUC's base rates with the specific understanding that KIUC will not be including any costs associated with curtailed energy in its ERAC."<sup>88</sup>

3.

The PMRF Substation

The Consumer Advocate does not object to KIUC's commitment of funds to construct the PMRF Substation and the Transmission Line.<sup>89</sup> The Consumer Advocate notes that the total estimated costs to be borne by KIUC for the PMRF Substation and the Transmission Line are roughly \$8.87 million.<sup>90</sup> The Consumer Advocate notes that these costs are "in the same range" as the Aepo Substation - which the commission approved in Docket No. 2017-0098 - with the exception of certain design features required by the Navy.<sup>91</sup> Because the costs presented in

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and Docket No. 2017-0018, Decision and Order No. 34723, filed on July 28, 2017).

<sup>88</sup>CA SOP at 20.

<sup>89</sup>CA SOP at 22.

<sup>90</sup>CA SOP at 21 (citation omitted).

<sup>91</sup>CA SOP at 21 (citation omitted).

the Application are estimates, the Consumer Advocate reserves its right to review the actual project costs in KIUC's next rate proceeding.<sup>92</sup>

4.

The Transmission Line

The Consumer Advocate does not object to the placement of the Transmission Line above the surface of the ground.<sup>93</sup> The Consumer Advocate evaluates the factors set forth in HRS § 269-27.6(a) as follows.

With respect to HRS § 269-27.6(a)(1), the Consumer Advocate notes that the capital costs to place the Transmission Line above ground are \$370,000, and an equivalent underground installation would cost, approximately \$1,900,000 - a difference of \$1,530,000.<sup>94</sup> The Consumer Advocate explains that there are minimal benefits of an underground configuration due to: (1) the relatively short distance of the Transmission Line (0.3 miles); (2) the distance between the Transmission Line and the nearest residences

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<sup>92</sup>CA SOP at 22 (citation omitted).

<sup>93</sup>CA SOP at 25.

<sup>94</sup>CA SOP at 23 (citing Response to CA-IR-21).

(2.9 miles); and (3) the apparent lack of any operational or maintenance benefits.<sup>95</sup>

With respect to HRS § 269-27.6(a)(2), the Consumer Advocate states that it "is not aware of any governmental public policy or mandate" that would require the underground placement of the Transmission Line.<sup>96</sup>

With respect to HRS § 269-27.6(a)(3), the Consumer Advocate states that neither the County of Kauai nor the Navy offered to pay the additional costs to underground the Transmission Line.<sup>97</sup>

With respect to HRS § 269-27.6(a)(5), the Consumer Advocate states that it "is not aware of any additional relevant factors" that the commission should consider.<sup>98</sup>

Based on this analysis, with respect to HRS § 269-27.6(a)(4), the Consumer Advocate does not object to the construction of the Transmission Line above the surface of the ground.<sup>99</sup>

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<sup>95</sup>CA SOP at 23-24.

<sup>96</sup>CA SOP at 24.

<sup>97</sup>CA SOP at 25 (citation omitted).

<sup>98</sup>CA SOP at 25.

<sup>99</sup>CA SOP at 25.

HRS § 269-19 and the Sublease

The Consumer Advocate agrees with KIUC that the commission could construe the specific terms of the sublease as KIUC encumbering the whole or any part of its road, line, plant, system, or other property necessary or useful in the performance of its duties to the public, under HRS § 269-19.<sup>100</sup> The Consumer Advocate states that notwithstanding a commission determination that HRS § 269-19 requires commission approval of the sublease, the Consumer Advocate does not object to the commission waiving the requirement of HRS § 269-19, pursuant to HRS § 269-31(b).<sup>101</sup> The Consumer Advocate asserts that "it is reasonable and in the public interest to allow the sublease to effectuate the PPA" between KIUC and AES.<sup>102</sup>

KIUC's Reply Statement of Position

KIUC states that it would not object to the commission issuing a decision and order in this proceeding that is consistent with the Consumer Advocate's stated position, including the

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<sup>100</sup>CA SOP at 26 (citations and quotations omitted).

<sup>101</sup>CA SOP at 26 (citations and quotations omitted).

<sup>102</sup>CA SOP at 26-27.

Consumer Advocate's requested conditions.<sup>103</sup> Specifically KIUC does not object to conditions stating:

KIUC shall file with the [c]ommission and Consumer Advocate copies of all AES invoices related to the engineering, procurement, construction, and maintenance associated with the PV/BESS Facility no later than sixty (60) days after the commercial operation date. In addition, KIUC shall also provide copies of AES' income statements or results of operations related to the PV/BESS Facility that will allow the [c]ommission and Consumer Advocate to evaluate the comparability of the [F]acility's actual results to KIUC's analysis made in support of the proposed PPA. These filings shall be treated as confidential information and shall be filed under seal.<sup>104</sup>

#### IV.

#### DISCUSSION

##### A.

#### Legal Authority

##### 1.

HRS § 269-27.2(c) and HAR § 6-60-6(2)

HRS § 269-27.2(c) states:

The rate payable by the public utility to the producer for the nonfossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided that in the event the public utility and the supplier fail to reach an agreement

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<sup>103</sup>KIUC Response at 2.

<sup>104</sup>KIUC Response at 2 (quoting CA SOP at 18).

for a rate, the rate shall be as prescribed by the public utilities commission according to the powers and procedures provided in this chapter.

The commission's determination of the just and reasonable rate shall be accomplished by establishing a methodology that removes or significantly reduces any linkage between the price of fossil fuels and the rate for the nonfossil fuel generated electricity to potentially enable utility customers to share in the benefits of fuel cost savings resulting from the use of nonfossil fuel generated electricity. As the commission deems appropriate, the just and reasonable rate for nonfossil fuel generated electricity supplied to the public utility by the producer may include mechanisms for reasonable and appropriate incremental adjustments, such as adjustments linked to consumer price indices for inflation or other acceptable adjustment mechanisms.

HAR § 6-60-6(2) states:

No changes in fuel and purchased energy costs may be included in the fuel adjustment clause unless the contracts or prices for the purchase of such fuel or energy have been previously approved or filed with the commission.

2.

G.O. 7

Paragraph 2.3(g)(2) of G.O. 7, as modified by D&O No. 21002, states, in relevant part:

Capital Improvements.

. . . . .

2. Proposed capital expenditures for any single project related to plant replacement, expansion or modernization, in excess of \$2.5 million, excluding customer contributions,



or 10 per cent of the total plant in service, whichever is less, shall be submitted to the Commission for review at least 60 days prior to the commencement of construction or commitment for expenditure, whichever is earlier . . . . Failure of the Commission to act upon the matter and render a decision and order within 90 days of filing by the utility shall allow the utility to include the project in its rate base without the determination by the Commission required by this rule. The data submitted under this rule shall be in such form and detail as prescribed by the Commission.

G.O. 7, Paragraph 2.3(g)(2), as modified by D&O No. 21002, Ordering Paragraph No. 2, at 15.

3.

HRS § 269-27.6

HRS § 269-27.6 states:

**Construction of high-voltage electric transmission lines; overhead or underground construction.**

(a) Notwithstanding any law to the contrary, whenever a public utility applies to the public utilities commission for approval to place, construct, erect, or otherwise build a new 46 kilovolt or greater high-voltage electric transmission system, either above or below the surface of the ground, the public utilities commission shall determine whether the electric transmission system shall be placed, constructed, erected, or built above or below the surface of the ground; provided that in its determination, the public utilities commission shall consider:

- (1) Whether a benefit exists that outweighs the costs of placing the electric transmission system underground;

- (2) Whether there is a governmental public policy requiring the electric transmission system to be placed, constructed, erected, or built underground, and the governmental agency establishing the policy commits funds for the additional costs of undergrounding;
- (3) Whether any governmental agency or other parties are willing to pay for the additional costs of undergrounding;
- (4) The recommendation of the division of consumer advocacy of the department of commerce and consumer affairs, which shall be based on an evaluation of the factors set forth under this subsection; and
- (5) Any other relevant factors.

4.

HRS § 269-19(a)

HRS § 269-19(a) states, in relevant part:

[N]o public utility shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its road, line, plant, system, or other property necessary or useful in the performance of its duties to the public . . . without first having secured from the public utilities commission an order authorizing it to do so. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, made other than in accordance with the order of the commission shall be void.

HRS § 269-6(b)

HRS § 269-6(b) states, in relevant part:

The public utilities commission shall consider the need to reduce the State's reliance on fossil fuels through energy efficiency and increased renewable energy generation in exercising its authority and duties under this chapter. In making determinations of the reasonableness of the costs of utility system capital improvements and operations, the commission shall explicitly consider, quantitatively or qualitatively, the effect of the State's reliance on fossil fuels on price volatility, export of funds for fuel imports, fuel supply reliability risk, and greenhouse gas emissions.

## B.

The PPA

On April 28, 2014, the commission, in In re Public Util. Comm'n, Docket No. 2012-0036, issued as Exhibit A to its Decision and Order No. 32052, the Commission's Inclinations on the Future of Hawaii's Electric Utilities ("Inclinations"). In the Inclinations, the commission emphasized the need for the electric utilities to stabilize and lower energy rates/costs and customer bills through actions that include the aggressive pursuit of new

clean energy sources and expanding choices for customers to manage their energy use.<sup>105</sup>

The Inclinations emphasized the importance of achieving lower, more stable bills through a cost-effective, high renewable energy portfolio. Like the power purchase agreement that the commission approved in Docket Nos. 2015-0331 and 2017-0018, the PPA appears to take a significant step in this direction for KIUC members/customers.

The commission has reviewed the filings in this docket and observes that the PPA appears to offer many benefits to KIUC's members/customers including energy cost savings, contribution to the RPS, and many grid benefits from the BESS.

As mentioned above, under the PPA, KIUC projects that its members/customers will save an estimated \$76 million over the 25-year term of the PPA, and KIUC will reduce its annual fuel consumption by an average of 2.6 million gallons per year.<sup>106</sup>

KIUC further projects that the renewable energy that it purchases from the Facility pursuant to the PPA will assist KIUC

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<sup>105</sup>See, e.g., Inclinations at 2-3 (while the Inclinations generally set forth policy for the Hawaiian Electric Companies, the principles discussed above are applicable to electric utilities statewide).

<sup>106</sup>Application at 23-24. See also HRS § 269-6(b).

in achieving its RPS, and contribute approximately 7.64 percent to KIUC's 2020 RPS requirements.<sup>107</sup>

KIUC projects the dispatchable, "firm-like" nature of the Facility will provide many grid benefits, including (1) helping with ramping towards KIUC's afternoon/evening peak; (2) shaving the evening peak (rather than dispatching oil-fired generation); (3) offsetting night-time oil-fired generation; and (4) assisting in grid stabilization, subject to discharge limits.

Furthermore, the pricing in the PPA is independent from the price of fossil fuel. This insulates KIUC members/customers from the volatile fossil fuel market and complies with the requirement of HRS § 269-27.2(c) that rates "shall be accomplished by establishing a methodology that removes or significantly reduces any linkage between the price of fossil fuels and the rate for the nonfossil fuel generated electricity to potentially enable utility customers to share in the benefits of fuel cost savings resulting from the use of nonfossil fuel generated electricity."

KIUC members/customers will not be able to realize the benefits of the Facility if AES is unable to build it. The commission notes that KIUC's process to short-list developers with sufficient financial stability, liquidity, credit,

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<sup>107</sup>Application at 24.

experience with solar and storage, experience in Hawaii, preliminary engineering and design, and proposed terms, serves to reduce much of the risk typically associated with this type of project.<sup>108</sup>

The commission further notes that the PPA has specific measures to mitigate risks and protect KIUC's members/customers should the Facility not be built.

The commission also observes that KIUC has asserted that its negotiations with AES were done at arms-length and that the terms and conditions of the PPA and related Interconnection Agreement: (1) will not affect KIUC's ability to provide electric service to its members/customers; and (2) will not unduly impact the reliability of KIUC's system.<sup>109</sup>

### C.

#### The ERAC

HAR § 6-60-6(2) allows for purchased energy costs, including related revenue taxes, to be passed through a utility's ERAC to mitigate the significant financial risks caused by volatility in the price of fuel. The commission has allowed the use of the ERAC, or comparable mechanisms, to recover purchased

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<sup>108</sup>Application at 7.

<sup>109</sup>Application at 25 (citations omitted).

energy charges in the past, to the extent that they are not recovered in base rates.<sup>110</sup> The Consumer Advocate finds it reasonable for KIUC to include the payments and related revenue taxes that it incurs under the PPA in KIUC's ERAC, to the extent that those costs are not included in base rates.<sup>111</sup> Under these circumstances, the commission approves this request, with the proviso that KIUC did not request, and the commission does not approve, the inclusion of any costs associated with curtailed energy in KIUC's ERAC.

D.

G.O. 7 and the PMRF Substation

The PMRF Substation Project is a necessary component of the Facility. Because the commission approves the PPA, the commission also approves KIUC's request to commit an estimated \$8.87 million for the PMRF Substation Project. Consistent with the commission's past KIUC capital expenditure project decisions, the commission's approval is subject to the standard condition that no part of the PMRF Substation Project may be included in

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<sup>110</sup>See, e.g., Docket No. 2014-0356, Decision and Order No. 33036, filed on July 31, 2015, at 70-71 and 86; Docket No. 2015-0094, Decision and Order No. 33160, filed on September 24, 2015, at 23-24 and 32-33; and Docket No. 2017-0018, Decision and Order No. 34723, filed on July 28, 2017, at 27.

<sup>111</sup>CA SOP at 19-20.

KIUC's rate base unless and until the PMRF Substation Project is actually installed, and is used and useful for public utility purposes, as determined in the rate proceeding or appropriate cost recovery mechanism following the completion of the PMRF Substation Project.<sup>112</sup>

In adopting this condition, the commission recognizes that KIUC is a non-profit, non-investor owned electric cooperative and does not necessarily utilize rate base in calculating its revenue requirement. Nonetheless, in KIUC's last general rate case, In re Kauai Island Util. Coop., Docket No. 2009-0050, an average test year rate base amount was utilized to calculate KIUC's test year depreciation and amortization expense for ratemaking purposes.<sup>113</sup> Consistent with prior commission decisions, KIUC must also file a final cost report following the completion of the PMRF Substation Project.<sup>114</sup>

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<sup>112</sup>See, e.g., In re Kauai Island Util. Coop., Docket No. 2011-0045, Decision and Order, filed on September 2, 2011, Ordering Paragraph No. 1, at 30.

<sup>113</sup>See Docket No. 2009-0050, Decision and Order, filed on September 9, 2010, at 6 n.12 (as an electric cooperative, KIUC does not measure its revenue requirement using rate base) and 19 n. 26 (the parties stipulated to an average test year rate base amount to calculate KIUC's test year depreciation and amortization expense for ratemaking purposes).

<sup>114</sup>See, e.g., In re Kauai Island Util. Coop., Docket No. 2010-0299, Decision and Order, filed on September 29, 2011, Ordering Paragraph No. 2, at 21; and Docket No. 2011-0045, Decision and Order, filed on September 2, 2011, Ordering Paragraph No. 2, at 30-31.



E.

HRS § 269-27.6 and the Transmission Line

Pursuant to HRS § 269-27.6(a)(1), the commission finds that there is no evidence in the record that there is a benefit that outweighs the cost of placing the Transmission Line underground. The commission credits KIUC's assertion that potential benefits, if any, of placing the Transmission Line underground are mitigated by increased construction costs and potentially costlier and more difficult repairs.<sup>115</sup> The commission notes that the estimated capital costs to place the Transmission Line above ground are \$370,000, and an equivalent underground installation would cost an estimated \$1,900,000.<sup>116</sup>

Furthermore, the visual impact of the Transmission Line overhead appears to be minimal because the same corridor already contains overhead lines, and because the Transmission Line will be built 2.9 miles away from the nearest residence.<sup>117</sup>

Pursuant to HRS § 269-27.6(a)(2), the commission is not aware of any governmental policies requiring the underground placement of the Transmission Line.

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<sup>115</sup>Application at 30-31.

<sup>116</sup>CA SOP at 23 (citing Response to CA-IR-21).

<sup>117</sup>Application at 32.

Pursuant to HRS § 269-27.6(a)(3), the commission is not aware of any governmental agency or any other party that is willing to pay for the additional costs of placing the Transmission Line underground.

Pursuant to HRS § 269-27.6(a)(4), the Consumer Advocate does not object to the proposed overhead placement of the Transmission Line.<sup>118</sup>

Pursuant to HRS § 269-27.6(a)(5), the commission is not aware of any other "relevant factors" that would justify undergrounding the Transmission Line.

Based on the foregoing, the commission approves KIUC's request to place the Transmission Line above the surface of the ground, pursuant to HRS § 269-27.6.

F.

HRS § 269-19(a)

The purpose of HRS § 269-19 is to safeguard the public interest.<sup>119</sup> KIUC's lease from the Navy of a parcel of land within the PMRF, and sublease of 138 acres of said parcel to AES for the purpose of construction, maintenance, and operation of the

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<sup>118</sup>CA SOP at 25.

<sup>119</sup>In re Honolulu Rapid Transit Co., Ltd., 54 Haw. 402, 409, 507 P.2d 755, 759 (1973).

Facility, appears to fall within the ambit of HRS § 269-19(a). The sublease is necessary to complete the Facility. The commission finds that it is reasonable and in the public interest to allow the sublease to effectuate the PPA between KIUC and AES. Therefore, to the extent that HRS § 269-19(a) is applicable, the commission approves, pursuant to HRS § 269-19(a), KIUC's plan to sublease land within PMRF for the purpose of the construction, maintenance, and operation of the Facility, as specifically described in the Application. In granting this approval, the commission finds that the lease and subsequent sublease are necessary for the specific purpose of the construction, maintenance, and operation of the Facility.

G.

HRS § 269-6(b)

HRS § 269-6(b) requires the commission to "consider the need to reduce the State's reliance on fossil fuels through energy efficiency and increased renewable energy generation . . . ." <sup>120</sup> As noted above, the PPA will allow KIUC to reduce its annual fossil fuel consumption by an average of 2.6 million gallons per year. <sup>121</sup>

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<sup>120</sup>See HRS § 269-6(b) .

<sup>121</sup>See n.106, supra.

The PPA will achieve this reduction by displacing fossil fuel generation with new renewable generation.

HRS § 269-6(b) also requires the commission to "explicitly consider, quantitatively or qualitatively, the effect of the State's reliance on fossil fuels on price volatility, export of funds for fuel imports, fuel supply reliability risk, and greenhouse gas emissions."<sup>122</sup> Consistent with HRS § 269-6(b), the commission again notes that the PPA will reduce fossil fuel use by approximately 2.6 million gallons, annually. This reduction in fossil fuel use will, in turn, reduce the State's overall reliance on fossil fuels and thereby reduce the risks related to the volatility of fossil fuel prices. Further, by reducing fossil fuel consumption, the PPA will reduce the amount of funds expended on importing fossil fuel, and partially mitigate the risks of interrupted fossil fuel supplies. Finally, because the PPA will reduce fossil fuel consumption by approximately 2.6 million gallons annually, the PPA will concomitantly reduce the State's greenhouse gas emissions.

Additionally, as noted above, KIUC projects that the renewable energy that it purchases from the Facility pursuant to

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<sup>122</sup>See HRS § 269-6(b).

the PPA will assist KIUC in achieving its RPS, and contribute approximately 7.64 percent to KIUC's 2020 RPS requirements.<sup>123</sup>

H.

Conditions on Approval

As it has done in similar dockets, the commission adopts the Consumer Advocate's recommended conditions as follows.

(1) KIUC shall file with the commission and Consumer Advocate copies of all AES invoices related to the engineering, procurement, construction, and maintenance associated with the Facility no later than sixty (60) days after the Commercial Operation Date of the Facility.

(2) KIUC shall also provide copies of AES's income statements or results of operations related to the Facility that will allow the commission and Consumer Advocate to evaluate the comparability of the Facility's actual results to KIUC's analysis made in support of this Application. These filings shall be treated as confidential information and shall be filed under seal in this docket.

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<sup>123</sup>Application at 24.

V.

FINDINGS AND CONCLUSIONS

1. Based on the foregoing, the commission finds and concludes as follows.

2. KIUC's request to approve the PPA is granted, subject to the conditions set forth in this Decision and Order. The commission concludes that the PPA offers numerous benefits, including: (1) a fixed pricing regime that delinks energy pricing from the price of fossil fuels; (2) bill savings for KIUC's members/customers; and (3) significant savings over the term of the PPA.

3. The purchased energy charges to be incurred under the PPA are just and reasonable, should help insulate KIUC's members/customers from volatility of fossil fuel prices, and comply with HRS § 269-27.2(c).

4. The power purchase arrangements under the PPA are prudent and in the public interest. The commission finds and concludes that the PPA will help the State to achieve its RPS goals and reduce the State's reliance on fossil fuels.

5. Given the commission's overall approval of the PPA, the commission also approves KIUC's request to include the purchased energy charges, including related revenue taxes, but excluding any payments for curtailed energy, incurred by KIUC

under the PPA in KIUC's ERAC, to the extent that those costs are not already included in base rates.

6. The commission approves KIUC's request to commit an estimated \$8.87 million to the PMRF Substation Project, provided that no part of the PMRF Substation Project may be included in KIUC's rate base unless and until the PMRF Substation Project is in fact installed, and is used and useful for public utility purposes, as determined in the rate proceeding or appropriate cost recovery mechanism following the completion of the PMRF Substation Project. KIUC shall file, in this docket, a final cost report following the completion of the PMRF Substation Project.

7. KIUC's request to build the Transmission Line above the surface of the ground is approved, pursuant to HRS § 269-27.6(a).

8. The commission approves, pursuant to HRS § 269-19(a), KIUC's plan to sublease land within PMRF for the purpose of the construction, maintenance, and operation of the Facility, as specifically described in the Application.

VI.

ORDERS

THE COMMISSION ORDERS:

1. The requests in KIUC's Application for approval of its PPA with AES, dated September 29, 2017, are approved, subject to the conditions set forth in this Order. Specifically, the commission:

- A. Approves the PPA pursuant to HRS § 269-27.2;
- B. Finds that the contract price of \$108.50 per MWh to be paid by KIUC to AES pursuant to the PPA is just and reasonable; and
- C. Finds that the purchased energy arrangements under the PPA are prudent and in the public interest.

2. KIUC's request to include the purchased energy charges and related revenue taxes that it incurs under the PPA, pursuant to HAR § 6-60-6(2), in its ERAC, to the extent that those costs are not already included in base rates, except for any costs related to curtailed energy, is approved.

3. KIUC's request to commit an estimated \$8.87 million to the PMRF Substation Project pursuant to Paragraph 2.3(g)(2) of the commission's G.O. 7 is approved. KIUC shall file, in this docket, a final cost report following the completion of the PMRF Substation Project.



4. KIUC's request to build the Transmission Line above the surface of the ground is approved, pursuant to HRS § 269-27.6(a).

5. The commission approves, pursuant to HRS § 269-19(a), KIUC's plan to sublease land within PMRF to AES, for the purpose of the construction, maintenance, and operation of the Facility, as specifically described in the Application.

6. KIUC shall file with the commission and Consumer Advocate copies of all AES invoices related to the engineering, procurement, construction, and maintenance associated with the Facility no later than sixty (60) days after the Commercial Operation Date of the Facility.


7. KIUC shall also provide copies of AES's income statements or results of operations related to the Facility that will allow the commission and Consumer Advocate to evaluate the comparability of the Facility's actual results to KIUC's analysis made in support of this Application.

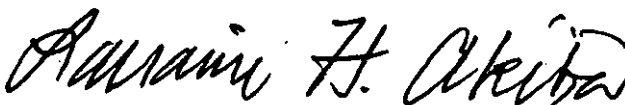
8. The filings made pursuant to Ordering Paragraph Nos. 6 and 7, above, shall be: (1) filed in this docket under seal; and (2) shall be treated as confidential information.

9. Unless ordered otherwise by the commission, this docket is closed. Nevertheless, the filings required pursuant to Ordering Paragraph Nos. 3, 6, and 7, above, shall be filed in this docket.

DONE at Honolulu, Hawaii JUN 20 2018

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Randall Y. Iwase, Chair

By   
Lorraine H. Akiba, Commissioner

By   
James P. Griffin, Commissioner

APPROVED AS TO FORM:

  
Mike S. Wallerstein

2017-0443.ljk

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail,  
postage prepaid, and properly addressed to the following parties:

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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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